



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R07-OAR-2022-0432; FRL-9851-02-R7]**

### **Air Plan Partial Approval and Partial Disapproval; Missouri; Construction Permits Required**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to partially approve and partially disapprove revisions to the Missouri State Implementation Plan (SIP) received on March 20, 2019 and June 10, 2021. The SIP revisions in the 2019 and 2021 submittals incorporate updates to construction permit requirement regulations for stationary and portable air sources in Missouri that help ensure ambient air quality standards are met. The changes include procedures for the Missouri Department of Natural Resources (MoDNR) to issue general permits, numerous organizational changes, administrative and typographical edits. The approved portions of the rule revision meet the requirements of the Clean Air Act. EPA is disapproving Section (1)(B) regarding voluntary permits. EPA is disapproving because the language of the provision is too vague and does not provide sufficient clarity for implementation.

**DATES:** The final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R07-OAR-2022-0432. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through [www.regulations.gov](http://www.regulations.gov) or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Keith Johnson, Environmental Protection Agency, Region 7 Office, Air Permitting and Standards Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7737; email address: [johnson.keith@epa.gov](mailto:johnson.keith@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" refer to the EPA.

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### **I. What is Being Addressed in this Document?**

The EPA is partially approving and partially disapproving submissions from Missouri that revises 10 CSR 10-6.060 Construction Permits Required. The revisions were received by

EPA on March 20, 2019, and June 10, 2021. The EPA proposed to partially approve and partially disapprove these submission on June 2, 2022 (87 FR 33464). The EPA's analysis of the revisions can be found in Section II of this document, Section III of the proposed rule, and in more detail in the technical support document (TSD) included in this docket.

## **II. What is EPA's Analysis of the Rule Revisions?**

In the 2019 SIP submission, MoDNR stated that the revisions to this rule were extensive in order to clarify requirements and procedures for improving readability and regulatory certainty. These changes remove outdated references to incorporation by reference information and added appropriate incorporation by reference information to this rule. The changes clarify the definition of "portable equipment installation" and added procedures for issuing general permits in addition to other minor typographical corrections. For portable equipment installations, the potential to emit major source threshold of particulate matter was changed to match federal requirements.

Also in Missouri's 2019 submission, the State requested to add a provision for voluntary permits. The EPA is disapproving Section (1)(B) of 10 CSR 10-6.060 regarding voluntary permits. EPA finds that the language of the voluntary permit provision is too vague. For a SIP revision to be approved, EPA evaluates the rule revisions to ensure that any new provisions are permanent, quantifiable, and enforceable. EPA is disapproving because there is no information in the rule on the conditions, requirements,

and parameters for applying for, issuing, or implementing voluntary permits. Based on the limited language in the rule, it is unclear how MoDNR intended to implement the provision. The rule text and EPA's full analysis of the requested revisions is included in the TSD.

Missouri's 2021 SIP submission amendments consisted primarily of administrative text edits and clarifications. A clarification to the definition of *Portable equipment* was added in Section 2 to explicitly state that "any other air pollutant" includes PM<sub>10</sub> and PM<sub>2.5</sub>. As discussed in the TSD, EPA finds that this rule revision would not interfere with maintenance of the PM<sub>2.5</sub> or PM<sub>10</sub> NAAQS. The submission also clarified referenced materials and ensures consistency with the federal requirements.

Based on EPA's analysis of the requested revisions to 10 CSR 10-6.060 as summarized here and more fully described in the TSD, EPA is approving all requested revisions, other than section (1)(B) regarding voluntary permits, because they meet the requirements of the Clean Air Act (CAA), do not negatively impact the stringency of the SIP, or have an adverse impact to air quality.

### **III. Have the Requirements for Approval of a SIP Revision Been Met?**

With respect to the portions of the submittal which EPA is approving, the State submission met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria

of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from August 1, 2018 to October 4, 2018 and received 56 comments. 32 comments were made by EPA, 21 comments from State of Missouri Air Program Staff, and 4 from the public. The State of Missouri revised the rule and responded to comments prior to submitting to the EPA. In addition, as explained above (and in more detail in the technical support document which is included in the docket for this action), the revisions proposed for approval meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

As explained in Section II and further in the TSD, EPA is disapproving Section (1)(B) of 10 CSR 10-6.060 regarding voluntary permits.

The EPA received no comments on the proposed rule during the public comment period which opened on June 2, 2022, the date of publication in the *Federal Register*, and closed on July 5, 2022.

#### **IV. What Action is the EPA Taking?**

The EPA is amending the Missouri SIP by partially approving and partially disapproving the State's request to revise 10 CSR 10-6.060 "Construction Permits Required." Under section 179(a) of the CAA, final disapproval of a submittal that addresses a requirement of part D, title I of the CAA (CAA sections 171-193) or is required in response to a finding of substantial inadequacy as described in CAA section 110(k)(5) (SIP Call) starts a sanctions clock. The Missouri SIP submission that we

are partially disapproving was not submitted to meet either of these requirements. Therefore, this partial disapproval will not trigger mandatory sanctions under CAA section 179. In addition, CAA section 110(c)(1) provides that EPA must promulgate a Federal Implementation Plan (FIP) within two years after either finding that a State has failed to make a required submission or disapproving a SIP submission in whole or in part, unless EPA approves a SIP revision correcting the deficiencies within that two-year period. With respect to our partial disapproval of Missouri's SIP submission, however, we conclude that any FIP obligation resulting from this partial disapproval is satisfied by our determination that there is no deficiency in the SIP to correct. Specifically, we are approving all revisions to the state rule except the voluntary permits provision discussed in this action therefore this action creates no deficiency in the SIP.

## **V. Incorporation by Reference**

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Missouri rule 10 CSR 10-6.060 as described in Section I of this preamble and set forth below in the amendments to 40 CFR part 52. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 7 Office (please

contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## **VI. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).
- This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United



States. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

- Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: \_\_\_\_\_

July 29, 2022.

Meghan A. McCollister,  
Regional Administrator,  
Region 7.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as set forth below:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart AA-Missouri**

2. In §52.1320, the table in paragraph (c) is amended by revising the entry "10-6.060" under the heading "Chapter 6-Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri" to read as follows:

**§52.1320 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

**EPA-Approved Missouri Regulations**

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10-6.060	Construction Permits Required	5/30/2020	[insert date of publication in the Federal Register], [insert Federal Register citation]	Provisions of the 2010 PM2.5 PSD—Increments, SILs and SMCs rule relating to SILs and SMCs that were affected by the January 22, 2013 U.S. Court of Appeals decision are not SIP approved. Provisions of the 2002 NSR reform rule relating to the Clean Unit

Missouri citation	Title	State effective date	EPA approval date	Explanation
				Exemption, Pollution Control Projects, and exemption from recordkeeping provisions for certain sources using the actual- to-projected-actual emissions projections test are not SIP approved. "Livestock and livestock handling systems from which the only potential contaminant is odorous gas." Section 9, pertaining to hazardous air pollutants, is not SIP approved. EPA previously approved the 3/30/2016 state effective date version of 10 CSR 10-6.060, with the above exceptions, in a <i>Federal Register</i> document published October 11, 2016. Section (1) (B) of 10 CSR 10-6.060 covering the voluntary permit provision is not SIP approved.
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[FR Doc. 2022-16663 Filed: 8/10/2022 8:45 am; Publication Date: 8/11/2022]